

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.23068 of 2002

DATED: 18-07-2007

Between:

D.Narsimha Reddy

... Petitioner.

And

Revenue Divisional Officer,
Jammalamadugu,Kadapa.

And another.

... Respondents.

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.23068 of 2002

ORDER:

This writ petition is filed for a writ of mandamus to set aside the order of respondent No.1 in Ref.B/1165/2002, dated 19.8.2002 whereby the petitioner's fair price shop authorization was suspended on the ground that the petitioner was involved in Crime No.33 of 2002 registered for the offences under Sections 147, 148, 324 and 307 read with Section 149 of the Indian Penal Code and the petitioner was arrested on 30.7.2002 and remanded to judicial custody.

The suspension order impugned in this writ petition was questioned by the petitioner by way of appeal before respondent No.2 and he by his proceedings dated 2.11.2002 declined to interfere with the order of suspension and instead he directed the Revenue Divisional Officer – respondent No.1 to finalise the disciplinary proceedings against the petitioner by 30.11.2002. Interestingly, this order of respondent No.2 has not been questioned in the writ petition.

Heard Sri P.Radhakrishna, learned counsel for the petitioner and the learned Assistant Government Pleader for respondents.

Sri P.Radhakrishna, learned counsel for the petitioner submitted that since Andhra Pradesh State Public Distribution System (Control) Order 2001 notified in G.O.Ms.No.16 dated 6.4.2002 does not empower the licensing authority to take action on mere registration of crime or arrest of a dealer, the suspension of petitioner's authorization

by respondent No.1 is without jurisdiction and that therefore, the said order was questioned in this writ petition.

A perusal of the impugned order shows that since the petitioner was remanded to judicial custody and was not available to the card-holders, his authorization was suspended. Technically the learned counsel for the petitioner's contention that in the absence of a specific provision for taking action on mere registration of a crime may be correct and such a question may have to be decided in an appropriate case, but as already noted, the main ground on which the petitioner's license was suspended was that in view of his remand to judicial custody he was not available to the card-holders. It is not in dispute that respondent No.1 is the appointing authority and under Section 16 of the General Clauses Act 1897, the authority having power to appoint has power to suspend as well. Though a specific power under relevant Control Order is not vested, in the context in which respondent No.1 exercised his power, in view of the power inherent in the licensing authority and the aforementioned provision of the General Clauses Act it cannot be said that respondent No.1 is denuded of his power to place fair price shop dealer under suspension. I am also satisfied that the reason given by the petitioner is wholly germane for keeping the petitioner under suspension, because the main object of granting license to fair price shop dealer is to ensure proper distribution of essential commodities to the public at large and if he is not available for distribution of essential commodities the public interest would suffer. Viewed from this angle I do not see any illegality in the order passed by respondent No.1 in suspending the authorization of the petitioner on the ground that he was remanded to the judicial custody. The said order is in the nature of a stop-gap arrangement and respondent No.2 has rightly refused to interfere with

such an order. Having filed an appeal and failed to get an order, the petitioner ought to have questioned the order of respondent No.2 which he failed to do.

For the aforementioned reasons, the writ petition is wholly misconceived and is therefore dismissed.

C.V.NAGARJUNA REDDY,J

Date:18.07.2007
mdaa